

Message Text

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ACTION L-03

INFO OCT-01 AF-10 ARA-10 NEA-10 IO-13 ISO-00 EA-07
EB-07 AID-05 SP-02 SS-15 CIAE-00 INR-07 NSAE-00
HEW-04 COME-00 FRB-03 TRSE-00 XMB-02 OPIC-03
LAB-04 EPG-02 SIL-01 OMB-01 NSC-05 STR-04 CEA-01
DODE-00 NSCE-00 SSO-00 USIE-00 INRE-00 /120 W
-----029219 012018Z /72

O R 011925Z JUL 77 ZFF-4
FM USMISSION GENEVA
TO AMEMBASSY BRASILIA IMMEDIATE
SECSTATE WASDC 8810
INFO ALL OECD CAPITALS
AMEMBASSY ALGIERS
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY FREETOWN
AMEMBASSY ISLAMABAD
AMEMBASSY KINSHASA
AMEMBASSY LAGOS
AMEMBASSY MEXICO
AMEMBASSY TEHRAN
USMISSION USUN NEW YORK

C O N F I D E N T I A L GENEVA 5400

BRASILIA FOR HERBERT HANSEL AT OPENING OF BUSINESS JULY 4

EO 11652: GDS
TAGS: ECOSOC, EINV, EGEN, UN
SUBJECT: ECOSOC WORKING GROUP ON CORRUPT PRACTICES

REF: GENEVA 5277

1. WORKING GROUP ADOPTED REPORT BY CONSENSUS INCLUDING
IMPROVED "PROVISIONS RELEVANT TO ELABORATION OF AN INTER-
NATIONAL AGREEMENT TO ELIMINATE AND PREVENT ILLICIT PAYMENTS
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ETC." AND FOLLOWING RECOMMENDATION: "THE WORKING GROUP
RECOMMENDS TO ECOSOC THAT IT CONTINUE THE WORKING GROUP
IN ORDER TO COMPLETE ITS WORK, THAT IT EXPAND THE MEMBERSHIP
OF WORKING GROUP, AND THAT IT REQUEST THE EXPANDED
WORKING GROUP TO DRAFT AN INTERNATIONAL AGREEMENT TO PREVENT
AND ELIMINATE ILLICIT PAYMENTS IN WHATEVER FORM IN CON-
NEXION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS, AND

TO CONSIDER OTHER MEANS OF COMBATTING CORRUPT PRACTICES. THE WORKING GROUP FURTHER RECOMMENDS TO ECOSOC THAT IT CONSIDER THE QUESTION OF CONVENING A DIPLOMATIC CONFERENCE OF PLENIPOTENTIARIES TO CONCLUDE THE INTERNATIONAL AGREEMENT. MEXICO MADE STATEMENT FOR RECORD INDICATING THAT IT COULD NOT SUPPORT AN INTERNATIONAL AGREEMENT LIMITED TO ILLICIT PAYMENTS. IN ITS VIEW THIS WORK MUST BE COORDINATED WITH AND SUBORDINATED TO CODE OF CONDUCT FOR TNCs.

2. ISSUE FINALLY REVOLVED AROUND US DRAFT (REFTEL) AND COUNTERDRAFT CIRCULATED BY JAPANESE DEL WHICH RECOMMENDED THAT ECOSOC ESTABLISH APPROPRIATE MACHINERY TO PREPARE AN INTERNATIONAL AGREEMENT AS WELL AS OTHER OPTIONS AND THAT ECOSOC "CONSIDER THE POSSIBILITY OF CONVENING A DIPLOMATIC CONFERENCE." AMENDMENTS WERE PROPOSED BY ALGERIA AND NIGERIA TO WEAKEN THIS TEXT EVEN FURTHER. AMONG DEVELOPED COUNTRIES AUSTRALIA, CANADA AND NORWAY STRONGLY SUPPORTED US TEXT. BELGIUM INDICATED SLIGHT PREFERENCE FOR US TEXT. UK SAID IT COULD SUPPORT DECISION BY ECOSOC TO CONVENE DIPLOMATIC CONFERENCE. SWISS SAID IT WOULD SUPPORT EITHER US OR JAPANESE PROPOSAL. DUTCH MADE SIMILAR COMMENT BUT QUALIFIED SUPPORT OF US TEXT WITH UNDERSTANDING THAT IT DID NOT REQUIRE PROCEEDING WITH DIPLOMATIC CONFERENCE IF THERE IS NO PRIOR AGREEMENT ON PRINCIPLES. FRG SAID IT PREFERRED JAPANESE PROPOSAL. CONFIDENTIAL

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FRANCE SUPPORTED EXPANSION OF WORKING GROUP BUT OPPOSED CONVENING DIPLOMATIC CONFERENCE AT THIS STAGE. ITALY EMPHASIZED ITS SUPPORT FOR AN INTERNATIONAL AGREEMENT IN PRINCIPLE BUT PREFERRED TO SEE FURTHER AGREEMENT BEFORE ENTERING FINAL PHASE OF NEGOTIATIONS.

3. AMONG DEVELOPING COUNTRIES, ONLY IRAN OPENLY SUPPORTED US PROPOSAL. COLOMBIAN, WHO TOLD US PRIVATELY HE HAD INSTRUCTIONS TO SUPPORT IT, SAID NOTHING. ALGERIA, NIGERIA, UGANDA, MEXICO AND VENEZUELA ALL EXPRESSED RESERVATIONS ABOUT DIPLOMATIC CONFERENCE. ALL FOLLOWED GENERAL LINE LAID DOWN BY ALGERIA THAT THERE SHOULD BE GENERAL AGREEMENT ON BROAD PRINCIPLES, PARTICULARLY SOUTHERN AFRICAN ISSUE, BEFORE PROCEEDING WITH AGREEMENT ON ILLICIT PAYMENTS. ALGERIA SUGGESTED THAT AGREEMENT SHOULD INCLUDE A NUMBER OF SUBJECTS NOT JUST BRIBERY BUT HE EMPHASIZED THAT DECISION WOULD BE MADE BY ECOSOC AND THAT THE G-77 NEEDED TO COORDINATE ITS POSITION DURING THE NEXT MONTH. IN THE END, NIGERIA AND MEXICO WERE MOST DIFFICULT AND WE NEARLY FAILED TO REACH AGREEMENT ON ANY RECOMMENDATION TO ECOSOC.

4. AS TO SUBSTANCE, WHILE THE ENTIRE TEXT IS OPEN FOR REVISION AT FUTURE STAGE, WE MADE CONSIDERABLE PROGRESS IN IMPROVING SEVERAL ARTICLES, PARTICULARLY PROVISIONS ON CRIMINALIZATION AND EXCHANGE OF INFORMATION. ENTIRE TEXT ON REPORTING AGENTS FEES AND ON PAYMENTS TO MINORITY REGIMES IN SOUTHERN AFRICA ARE BRACKETED TO INDICATE THERE IS NO AGREEMENT IN PRINCIPLE TO THEIR INCLUSION.

5. FYI: WE BELIEVE IT IS EXTREMELY IMPORTANT TO PERSUADE ECOSOC TO CONVENE A DIPLOMATIC CONFERENCE AT A DATE CERTAIN IN ORDER TO SEPARATE ILLICIT PAYMENTS ISSUES FROM UN CODE OF CONDUCT ON TNCs AND RELATED ECONOMIC QUESTIONS DESCRIBED AS OTHER CORRUPT PRACTICES. MOST EUROPEANS APPEAR READY TO SUPPORT A DIPLOMATIC CON-

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ERENCE IF WE ARE FLEXIBLE ON DATE. JAPANESE DEL TOLD US IT COULD ACCEPT A DIPLOMATIC CONFERENCE IN 1979. WE COULD OBTAIN FULL SUPPORT OF OECD COUNTRIES PROMPTLY IF WE DROPPED PROPOSALS ON REPORTING. APART FROM FRANCE, MAIN PROBLEM WILL BE TO PERSUADE G-77 TO SUPPORT CONVENING DIPLOMATIC CONFERENCE. THIS WILL BE DIFFICULT TASK AT BEST. US DEL HAS CALLED FOR CONFERENCE IN 1978 BUT WE SEE LITTLE HOPE OF SELLING THAT DATE. ALGERIANS TOLD US DEL THAT THEY WOULD PREFER TO DELAY AGREEMENT ON ILLICIT PAYMENTS UNTIL CODE OF CONDUCT CAN BE CONCLUDED. AT PRESENT RATE OF PROGRESS THAT COULD BE YEARS AWAY. SORENSON

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